

Security 2 E010450

OGC Has Reviewed

17 February 1955

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT : Personnel Security Programs

1. This Office has been conducting a continuing review in line with its staff function of the legal problems involved in personnel security programs, and we have maintained liaison with the Department of Justice which is responsible for supervision of the President's program under Executive Order 10450. On 27 January 1955, Mr. Thompkins, head of the Internal Security Division of the Department of Justice, called a meeting of all General Counsels of departments and agencies to discuss informally the views of the Department of Justice in this field. I will make note of the points raised by Mr. Thompkins, together with our thoughts in connection therewith.

2. It was reported in the paper that Mr. Thompkins wished the General Counsel of each department or agency to take charge of the separate security programs, but I did not understand him to take this position at the meeting, nor do I believe it appropriate for the General Counsel to assume such a function. In my view, a personnel security program is the responsibility of the head of the agency alone, and each staff and component of the agency is responsible to him for playing its proper part in connection with the program. However, Mr. Thompkins made the following specific points:

a. He felt that the caliber of the Hearing Boards provided for in Executive Order 10450 was of the utmost importance, and that persons designated by the agencies to the Civil Service Commission's panel should be passed on by the General Counsel. I do not believe this is necessary in this Agency, as I think the Office of Personnel is fully aware of the President's desires in this connection and has appointed only those officials of the Agency they feel can fully carry out their responsibilities on such boards. Of course, we would be glad to consult with them at any time on the standards desired.

b. Mr. Thompson felt that a legal advisor to the board should be present at all hearings. This is no problem in the Central Intelligence Agency as this has been provided for in all board hearings since the Agency first dealt with this problem.

c. It was recommended that wherever possible the board hear from live witnesses and give an opportunity to the subject of the hearing to cross-examine whenever possible. This has been the general practice of the Central Intelligence Agency's program, subject only to limitations arising out of the lack of subpoena authority and the authority to pay witness fees and expenses and the further reluctance in many cases of witnesses to appear in person. I remember one case where the Agency went so far as to have the board hearings held in another city in order to hear witnesses whose travel expenses could not be paid.

d. The Department of Justice recommended that the statement of charges in any one case be approved by the Office of the General Counsel. In the Central Intelligence Agency, as a matter of practice, the statement of charges is normally prepared by either the General Counsel or his Deputy.

e. Mr. Thompson felt that the main weakness of the over-all Government program had been too hasty suspension of individuals too early in the program, and he felt that any case involving suspension should be reviewed in its entirety by the Office of the General Counsel prior to a determination on suspension. In this connection, cases arising under the President's program must be suspended before hearings under the law, whereas those arising under the Director of Central Intelligence's authority need be suspended only if it is deemed necessary to do so. Consequently, the Central Intelligence Agency has more leeway and in general the Office of the General Counsel has been consulted in connection with suspension.

f. The Department of Justice requested that all action possible be taken to expedite cases on the ground that suspension is a great hardship on the individual even if reinstated and paid in full. The Central Intelligence Agency has always considered security hearing procedures to be a matter of urgency, not only on the financial hardship ground but on the ground that both the Agency and the individual are entitled to the earliest possible determination of each case. Despite this sense of urgency, difficult cases cannot be

processed in an orderly manner in very short periods of time, although every effort will be used to reduce the time involved to a minimum.

g. Mr. Thompson stressed the importance of having the head of an agency receive the best advice possible, and in this connection stated that the Department of Justice does not favor boards composed of employees from within the agency. We differ from this position, not only on the ground of security which occasionally compels internal processing but also on the ground that the present system of selecting boards from a panel maintained by the Civil Service Commission of employees from other agencies would not obtain the most objective and equitable results. We feel that, in theory at least, the preferable solution would be an outside, cleared panel of eminent men of experience and wisdom in private life who are not subject to the pressures, politics, and prejudices involved in much Government service.

h. It was emphasized that if during a hearing any information were developed concerning false statements or perjury reports should be made to the Internal Security Division. As we understand it, it is the policy of this Agency to report any criminal violations to the Department of Justice unless overriding security considerations are found to make such action inappropriate.

3. As a general statement, Mr. Thompson encouraged agencies to clear up any backlog of cases they might have in process, stating that in his opinion that would leave them with nothing but applicant cases which are relatively easy to handle, thus simplifying the whole program. I am compelled to differ with his conclusion in this respect, as the Central Intelligence Agency has had no backlog for a considerable period of time and yet encounters a small but steady series of security cases arising in connection with persons already on duty in one capacity or another which must be processed.

19

LAWRENCE R. HOUSTON
General Counsel

OGC:LRH:jeb
cc: Security Office
Personnel Office
OGC chrono
✓ Subject "Security 2-E0 10450"